

SQUAW VALLEY MUTUAL WATER COMPANY

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Placer County Community Development Resource Agency
Environmental Coordination Services
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Attention: Maywan Krach
Email: cdraecs@placer.ca.gov

July 17, 2015

**Re: Comments of Squaw Valley Mutual Water Company on Draft EIR for
the Village at Squaw Valley Specific Plan**

Dear Ms. Krach:

This letter provides comments of the Squaw Valley Mutual Water Company (Mutual) on the Draft EIR (DEIR) for the Village at Squaw Valley Specific Plan (Specific Plan). Mutual's service area is located on the developed northwestern side of Squaw Valley. Founded in 1950, Mutual is responsible for distributing, supplying and delivering water for domestic use to its members. Mutual seeks to ensure the continued availability of high quality, affordable water for its members, while protecting the condition of its well sites and the integrity and sustainability of this water supply.

Fulfillment of Mutual's mission requires careful attention to the present and long-term condition of aquifers in the Olympic Valley Groundwater Basin. Mutual believes that to lawfully support decision-making on the Specific Plan, the EIR will require at least the following:

- Recirculation and revised EIR analysis based upon a new Water Supply Assessment (WSA) correcting major shortcomings in the current WSA.
- Complete and consistent project description, accurate baseline assessment, and revised analysis of project impacts, alternatives and mitigation.
- Drought-resilient analysis overcoming the DEIR's avoidance of meaningful assessment from the last four years of drought.
- Climate-resilient analysis overcoming the DEIR's failure to analyze the project and alternatives under water conditions constrained by climate change.
- Analysis and mitigation of the project's potential conflicts with water rights.

Mutual serves 282 parcels and 261 hook-ups within its service area. Eight of the remaining 21 lots in this area are scheduled for development or have construction

in progress. The DEIR identifies Mutual as one of the two municipal water suppliers within Olympic Valley (DEIR, 14-2). Mutual owns two parcels within the plan area (DEIR 3-4). Mutual is also responsible for two of the six active vertical wells tapping the alluvial aquifer, located respectively in the existing east parking lot area and near the Olympic Channel. (DEIR, 14-3). Further information about Mutual, including a description of its water rights and existing water system, are available on its website. <http://www.svmwc.com>.

Water issues have long formed a major source of concerns about the proposed Specific Plan, which continue in its present iteration. The Specific Plan, if adopted, would amend Placer County's 1983 Squaw Valley General Plan and Land Use Ordinance (1983 plan) and "comprehensively plan development of a recreation-based, all-season, mountain resort community," which would be developed over an estimated 25-year build-out period (DEIR 1-1). The DEIR follows the county's review of two rounds of scoping comments, including Mutual's attached scoping comment letters. As reflected in Mutual's most recent scoping comments submitted on March 10, 2014, Mutual's major concerns about the Specific Plan fall into five key categories: (1) hydrologic studies; (2) water usage patterns and projections; (3) water sources; (4) water rights; and (5) cumulative impacts. Mutual made specific requests for information that remain mostly unfulfilled. Mutual emphasized then, and continues to believe, that the EIR must "address the needs and rights of existing Squaw Valley residents and water users, while also protecting Squaw Valley's environment and appropriately accommodating new users."

Rather than attempting to address all the Specific Plan's environmental consequences covered in the DEIR, this comment letter focuses on water issues affecting Mutual's continued ability to supply its members and protect the integrity and sustainability of its water supply, as well as closely related issues involving the assessment of climate change.

The DEIR recognizes that "water supply availability" and "effects on Squaw Creek" are among the "major areas of controversy associated with the project." (ES 2-10). However, as detailed below, both the DEIR and the Water Supply Assessment (WSA) offered in support of its conclusions (DEIR, Attachment C) fail to overcome central deficiencies in the project's water analysis, and highlight major continuing problems with assessment and protection against the project's adverse water consequences. Mutual therefore continues to have major concerns about the project's impacts on water resources in Squaw Valley, even after recent modifications in the project. The EIR must fully address the project's environmental consequences, including those affecting the reliability, quality and rights to water of existing Squaw Valley residents and users.

The DEIR Relies Upon a Fundamentally Flawed Water Supply Assessment

The DEIR relies centrally and repeatedly upon a fundamentally flawed Water Supply Assessment (WSA) for the Specific Plan (Farr West Engineering, et al, 2014)(DEIR Appendix C). As used in the county's environmental review, the WSA forms the indispensable centerpiece of the DEIR's analysis of water-related issues. See, e.g., DEIR, ES 2-2 and chapters 6 (biological resources), 13 (hydrogeology and water resources), 14 (utilities and public services), 17 (alternatives) and 18 (cumulative impacts). In short, without reliance on the WSA and the modeling referenced in its analysis, the DEIR would lack the foundation for its key conclusions within these subject areas relating to project impacts, alternatives and mitigation.

Mutual agrees with the county that the Specific Plan is of "sufficient size," to be defined as a "water-demand project" requiring a WSA for purposes of CEQA compliance under CEQA Guidelines section 15155 (DEIR, 14-2; see also Pub. Res. Code, § 21151.9 (requiring WSA compliance); Wat. Code, §10910 (defining "project" for WSA purposes). Enacted first in 1995 and strengthened in California's 2001 "show me the water" legislation, the WSA law helps ensure that the document's analysis accurately informs local governments in their review and decision-making on major projects, like the present one, in which compliance is mandatory. A WSA must fully cover the law's list of required subjects, including "a discussion with regard to whether the total projected water supplies, determined to be available . . . for the project during normal, single dry, and multiple dry water years during a 20-year projection, will meet the projected water demand associated with the proposed project, in addition to existing and planned future uses" (Wat. Code, § 10910, subd. (c)(4).)

In addition to meeting the WSA law's requirements for disclosure, the county must also heed CEQA's requirements for complete and transparent water analysis. Distilling this history into a rigorous set of analytical principles, the California Supreme Court recognized that "speculative sources and unrealistic allocations" are "insufficient bases for decision-making under CEQA." (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 721.) Failure to provide "full disclosure" of relevant information relating to water supply vitiates an EIR's legality. (*Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, 85-104.) Providing full disclosure, in turn, helps fulfill the "essential mission under CEQA to present a full disclosure of the potential impacts of the proposal." (*Planning and Conservation League v. Department of Water Resources* (2000) 89 Cal.App.4th 892, 910-920.)

Rather than fulfilling the "show me the water" law's transparency objectives, or CEQA's, the WSA relied upon in the DEIR more closely resembles the looser analysis these requirements were designed to replace. To borrow a phrase from the 2001 law's principal architect, the water analysis here is too loose to support even "average-intelligence" growth, much less something smarter. (See Kanouse, "Water Supply Planning and Smart Growth," in C. Davis, *et al.*, NAVIGATING ROUGH WATERS (American Water Works Association, 2001), pp. 82, 90.) Critical errors in the WSA's methodology and central conclusions, and those in EIR sections focusing on water resource issues, are identified in two technical memoranda of hydrologic

consultant Tom Myers, PhD, respectively reviewing the WSA and the DEIR, which are appended to the comment letter of Sierra Watch on the DEIR (Myers' two memoranda are referenced here as Myers DEIR and Myers WSA). Myers' memorandum on the DEIR also contains extensive criticisms of conclusions drawn in water-related chapters of the EIR. Because these errors call into serious question the water conclusions reached in both documents, Mutual believes that they require reworking and recirculation of the water analysis supporting the Specific Plan, and cannot be sufficiently addressed merely through responses to comments or interlineated changes in the existing text.

Major errors in the WSA identified in the Myers memoranda include the following:

- The WSA relies upon a grossly inaccurate estimate of average high mountain precipitation, which undermines the assumed availability of precipitation reaching the valley floor for groundwater recharge, and the estimates of recharge. The WSA's key table on this issue (Table 3-1) estimates the average high mountain precipitation, as snowwater equivalent, to be 263 inches per year for 1993 through 2011, based upon data from the Snotel site, Squaw Valley at 8029 feet (NRCS Site 784). See WSA at 6; <http://www.wcc.nrcs.usda.gov/nwcc/site?sitenum=784>. The DEIR also relies upon this figure. (See, e.g., DEIR 13-7, and Exhibit 13-3.) By contrast, the actual data for the Snotel site show that the annual average for 1993-2011 was 80.6 inches per year, with a lower average of 71 since 1981. (Myers DEIR, 2, 9-10; Myers WSA, 2, 6.) Attachment 1 to the Myers Memorandum on the WSA summarizes the relevant data. This error inflates the DEIR's estimates of recharge and underlies its inaccurate claim that groundwater levels fully recover even in dry years (DEIR 13-13), while also understating the project's impacts to groundwater. (Myers DEIR, 9-10.)
- The WSA fails to provide a drought-resilient analysis of the range of water conditions during decades of project implementation and operation. Notably, the period singled out for analysis (from 1993-2011) fails to cover a representative range even of historic conditions, and does not include analysis of multiple dry-year conditions resembling those experienced in the current drought. (Myers WSA 2, 6, 11-14; Myers DEIR 2, 11-12, 14-15.)
- The WSA's failure to provide meaningful analysis of climate change produces an overly optimistic portrayal of available water resources, for the project and a failure to fully account for the project's water-related impacts. Climate change is causing the proportion of precipitation to fall as rainfall increases. Earlier occurrence of snowmelt will increase the length of the dry part of summer during which the groundwater does not discharge to Squaw Creek in the western part of the valley. Moreover, the WSA fails to meaningfully analyze climate change in its simulations, even though its profound consequences for precipitation and snowmelt timing will

likely lengthen the dry, or no-recharge, period of a year. Over the lengthy course of the project, snow will increasingly shift to rain and snowmelt will occur earlier. As a result, there are likely to be longer periods during the summer lacking runoff to recharge the aquifer, which will increase the seasonal period during which drawdown can harm the aquifer. (Myers WSA 2-3, Myers DEIR 3, 34-35.)

- The WSA's assessment of water supply sufficiency used groundwater modeling to analyze pumping of water meeting expected 2040 demands from existing and proposed new wells. However, the modeling's use of nine new municipal wells fails to match the WSA's determination that only six new wells were necessary (four for the project, and two to cover other anticipated increases in demand). The WSA analysis spreads the pumping over more wells than the project anticipates, resulting in an average pumping rate per well that in some cases is even lower than the existing rate of pumping, and a failure to account for the full extent of the project's consequences in specific locations. (Myers WSA 2, 11; Myers DEIR 1-2, 14-15.)

- The WSA's analysis of water sufficiency does not account for potential changes in stream flow stemming from the relationship between surface water and groundwater or changes in wetland conditions. (Myers WSA 1-2, 8-9; Myers DEIR 1-2.16-19.) The WSA assumes that use of eight-hour pumping cycles would cause only a small proportion of pumping to draw from the creek, but ignores that even after pumping ceases, stream flow will continue to be drawn from the aquifer. (Myers WSA 2, 15; Myers DEIR 10.)

- The WSA understates the consequences of the Specific Plan on the quantity and quality of groundwater and surface water. The stream in the west part of the valley already reaches dry or near-dry conditions, already increases the time period in which low flow conditions occur. Additional development, such as the massive project referenced in the Specific Plan, could draw groundwater levels much deeper and extend the length of stream reaches affected by low flows, while also lengthening the time during the fall until recovering groundwater levels restore flows to the stream. (Myers WSA 1-15; Myers DEIR 1-2, 9-35.)

- The WSA's benign conclusions about available water supply for the Specific Plan rely upon a questionable assessment of sufficiency, based on maintaining saturated thickness at 65 percent of the maximum. Although the WSA considers "maximum saturated thickness" to be historic conditions, including existing pumping, it fails to consider actual stresses on the aquifer, and relies on model simulations of existing pumping. However, the 65 percent figure is merely an operational limit, which maintains well pumping efficiency. It has no bearing upon basin-wide groundwater management issues, such as maintaining a yield or avoiding harm to the basin. (Myers WSA 2, 10-15; Myers DEIR 13-16.)

- The WSA relies upon selective and suspect analysis to support its estimates of project and non-project water demands for the next 25 years. It uses an

unrepresentative recession-era period, 2009 through 2011, to support its annual average occupancy rate of 55.2 percent, even though occupancy would have been lower than average during that period. Occupancy could be far higher than the estimated rate, producing a distorted estimate of water demand. Demand timing, with more of the total occurring in late summer after recharge, could also affect the water sufficiency estimates more than expected if these potential errors occur. More demand especially in late summer would cause even more drawdown lengthening dry periods and the length of dry stream. Significant drawdown could carry over from year to year during dry periods and cause significant water supply impacts beyond what the WSA and DEIR have analyzed. (Myers WSA 1-2, 15-16; Myers DEIR 2, 13.)

The DEIR Fails to Provide a Finite, Stable and Accurate Description of the Proposed Project.

Under CEQA, “[a]n accurate, stable and finite project description” is “the *sine qua non* of an informative and legally sufficient EIR.” (*County of Inyo v. City of Los Angeles (Inyo III)* (1977) 71 Cal.App.3d 185, 199.) Reliance on a “curtailed, enigmatic or unstable definition of the project” stands as the paradigm of legal error under CEQA, because it “draws a red herring across the path of public input.” (*Id.* at 199.)

The “project” addressed in CEQA review must include “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...” (14 Cal. Code Regs., § 15368; see also *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 271.) The project description must address “not only the immediate environmental consequences of going forward with the project, but also all ‘reasonably foreseeable consequence[s] of the initial project.’” (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 82.)

Despite recent revisions, the DEIR lacks crucial details necessary to understand the project and its environmental consequences. Ignoring criticism during scoping review of the EIR’s failure to clearly identify the project’s water supplier, the DEIR vaguely asserts that potable irrigation water is proposed to be provided “either” by the Squaw Valley Public Service District (SVPSD), “or by a mutual water company that would be established as part of this project.” (DEIR, 3-22; Specific Plan, 6-2.)

Mutual must accurately understand now the project’s consequences for its parcels, wells, and long-term ability to provide reliable and safe water to its members. It cannot reasonably or lawfully be expected to wait until after the Specific Plan is adopted to learn for the first time whether project water will come from SVPSD or from a still-unformed new mutual water company, with still-unknown consequences for its long-term ability to protect members’ water supply reliability, quality and

accountability. The potential role of other water sources or other aquifers, and the environmental consequences that follow, cannot be consigned to *post-hoc* review. Indeed, if the “new entity” is later selected as water provider, it would likely require preparation of a new WSA analyzing the new entity’s provision of water supplied to the project, rendering the present document obsolete along with the county’s reliance on it in CEQA analysis.

Notwithstanding repeated requests for clarification in scoping comments, key aspects of project-related water infrastructure—notably the location of new wells and their potential consequences for Mutual’s assets—remain fundamentally undefined and unstudied. Perfunctory efforts in the DEIR and WSA to analyze in hypothetical terms a number of “strategically placed” wells intended to work “in concert” with existing ones (DEIR, 3-22) merely underscore the vagueness surrounding these essential project details. The DEIR recognizes that that existing wells that cannot be “incorporated into the system” would be abandoned, and that the “number and location” of new wells would ultimately be “influenced” by the same still-undefined future choice of supplier—“whether a mutual water company is established as part of the project (which could require more wells).” (*Id.*) A host of other project features remain similarly undefined, ranging from the location of new water lines, which are not specifically identified, and the role of existing pipelines, which are to be relocated or abandoned as “needed.” (DEIR 3-32.) Squaw Creek restoration efforts likewise rely upon a “conceptual” design. (DEIR 3-33.)

As pointed out in the Myers memoranda, the nine new well locations referenced in groundwater modeling are inconsistent with the recognition in these documents that only six new wells would be necessary to “meet both project and new non-project demands.” (DEIR, 13-35; Exh. 13-21.) Far from being a conservative assumption, the simulation artificially spreads the impacts of the new wells and avoids a complete analysis of the project’s consequences.

Although the project is identified as a specific plan, project objectives are defined so narrowly that they inherently favor the project proponent’s resort development plan and curtail analysis of a reasonable range of feasible project alternatives. To comply with CEQA, an EIR must examine a range of reasonable alternatives that would feasibly obtain most of the project objectives, but avoid or substantially lessen any significant adverse effects of the project. (CEQA Guidelines, §15126.6.) In its screening and review of alternatives, the EIR must provide more than cursory analysis. It should not construe project objectives so tautologically that only the proposed project could conceivably be capable of achieving them.

Despite this, the DEIR curtails the range of alternatives based on the first and “fundamental” underlying purpose of “developing a year-round destination resort” (DEIR, 17-10). This objective is rooted in the “vision and objectives” of the 1983 plan contemplating “resort development on this site.” (*Id.*) As it relates to the project’s water consequences, an air of nostalgia accompanies the singular emphasis on one among numerous components of a land use plan more than three decades old

whose provisions relating to resource protection receive no similar mention. After facing multiple years of drought and with further challenges brought by climate change, the context in which Mutual must continue to serve its members and reliably deliver safe water cannot be deemed a *fait accompli* based on selective adherence to one provision in the 1983 plan. The Specific Plan, while premised on that need for consistency, also relies upon an *amendment* to the 1983 plan.

Finally, DEIR's deficient project definition cannot be rationalized on the ground that the DEIR is merely a "program" document that will require environmental review prior to any consequential specific application. (DEIR, 3-40.) The DEIR makes no secret of the county's belief that "further environmental review may not be necessary" as long as it determines that a subsequent project is "consistent" with the program document. (DEIR 3-39.) For Mutual, and for others who face major risks from the project's water-related consequences, the risk is that unstudied harmful consequences of the Specific Plan will evade review based upon later determination of "consistency" with the nebulous account of the project provided in the DEIR.

The Baseline and Environmental Setting Insulate the Project from Required Drought-Resistant Water Analysis

To comply with CEQA, an EIR must accurately account for the local and regional environmental setting in which a project operates, including a baseline ordinarily (but not automatically or exclusively) measured from issuance of the Notice of Preparation. (CEQA Guidelines, § 15125(a).) The EIR's analysis must enable consideration of the project's significant effects in its full environmental context. (Guidelines § 15125(c) (emphasis added).) Baseline selection is a foundational requirement under CEQA serving the EIR's "fundamental goal" to "inform decision makers and the public of any significant adverse effects a project is likely to have on the physical environment." (*Neighbors for Smart Rail v. Exposition Metro Line Const. Authority* (2013) 57 Cal.4th 439, 505 (citing *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 428).) Reliance on a faulty baseline distorts an agency's ability to assess project impacts and benefits, and provide effective mitigation. (See *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1217.) CEQA analysis must employ a realistic baseline that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts. (*Neighbors for Smart Rail*, 57 Cal.4th at 507; see also *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322, 325, 328.)

In the DEIR, the environmental setting and baseline are notably deficient due to their exclusion—and the further exclusion from meaningful analysis in the EIR's project assessment—of two very familiar elephants in the room, drought and climate change. Although drought resilience is a fundamental need of the project over 25 years of implementation, the baseline misleadingly portrays 2012 conditions as current, selectively evading many of the consequences of the last two years of

drought. (See, e.g., DEIR, ES-1.) In 2014, disabling the EIR's ability to provide complete and drought-resilient assessment of the project is legally and environmentally untenable. As reflected in the Governor's proclamation of a drought-related State of Emergency in 2014, responsible decision-making now clearly requires a contextual understanding of how a project and alternatives would operate under extreme drought. The DEIR concedes that the current drought could be "more severe" than the conditions currently covered in modeling, yet inexplicably curtails further analysis on the circular premise that it is not included in this modeling (DEIR 6-6.)

The DEIR's apparent rationalizations for that drought avoidance--issuance of the project's initial notice of preparation in 2012 and an assumed lack of data--make no sense in context. The operative notice of preparation here issued in 2014. The DEIR also provides no thorough or meaningful hydrologic assessment measured either from 2012 or 2014, nor does it honor Mutual's request in scoping comments for a study of basin conditions and analysis of its sustainable management. That remains the case even though the DEIR recognizes that its modeling identifies a drop of three to four feet due to groundwater withdrawals from the project (DEIR 13-55), and that the groundwater modeling included in the analysis may underestimate "extreme lows." (DEIR, 13-73.)

Further, that omission is even more glaring in light of the DEIR's recognition that the project, combined with other currently anticipated development, would require a 43 percent increase in average annual volume by 2040. (ES 1-3.) The DEIR also avoids meaningful analysis of how the Specific Plan will operate in connection with the Truckee River Operating Agreement and Truckee-Carson-Pyramid Lake Settlement Act. Specifically, the EIR must quantify the greater draw on both surface and subsurface resources that the Specific Plan will produce, which in turn will reduce outflow into the Truckee River and could upset the delicate TROA balance.

The DEIR Irresponsibly Evades Assessment of Climate Change Under Current and Future Conditions

The DEIR identifies climate change as a major concern, and concedes that it will reduce water supply and reduce snowfall over the foreseeable project term, among other consequences. (DEIR, 16-19, 7-1.) In its assessment of greenhouse gas emissions, the DEIR frankly recognizes major reductions in snowpack anticipated due to climate change, reporting DWR's projection, based upon historical data and modeling, "that the Sierra snowpack will experience a 25 to 40 percent reduction from its historic average by 2050." (DEIR, 16-2.) This chapter also reflects awareness that state agencies and leading experts have undertaken major efforts, through Cal-Adapt and other programs, to ensure that local and regional decision-makers have the tools needed to ensure climate-resilient decision-making. Yet without any foundation, the Draft EIR and WSA misleadingly describe 2000-2012 as a "characteristic" hydrologic period (DEIR ES-1), without referencing or properly incorporating the

consensus of scientific analysis undermining the notion that past hydrology can accurately account for hydrology over the next quarter-century.

The Draft EIR's failure to perform climate-resilient analysis is a fatal for a ski resort project whose very future, environmental and economic, depends heavily on Sierra snowpack. The DEIR's reliance on such a narrow and selective range of past hydrologic conditions, and its resistance to further study in the EIR, is fundamentally inconsistent with more than a decade of analysis and recommendations of DWR and of California's leading climate scientists. As DWR summarizes that research:

- “Climate change is having a profound impact on California water resources, as evidenced by changes in snowpack, sea level, and river flows . These changes are expected to continue in the future and more of our precipitation will likely fall as rain instead of snow. This potential change in weather patterns will exacerbate flood risks and add additional challenges for water supply reliability.”
- “The mountain snowpack provides as much as a third of California's water supply by accumulating snow during our wet winters and releasing it slowly when we need it during our dry springs and summers. Warmer temperatures will cause what snow we do get to melt faster and earlier, making it more difficult to store and use. By 2050, scientists project a loss of at least 25 percent of the Sierra snowpack. This loss of snowpack means less water will be available for Californians to use.”
- Climate change is also expected to result in more variable weather patterns throughout California. More variability can lead to longer and more severe droughts. In addition, the sea level will continue to rise threatening the sustainability of the Sacramento-San Joaquin Delta, the heart of the California water supply system and the source of water for 25 million Californians and millions of acres of prime farmland.

<http://www.water.ca.gov/climatechange/>.

That same consensus of scholarship also undermines the DEIR's notion that merely studying past hydrologic conditions (even if a wider range had been studied) could adequately account for the foreseeable range of hydrologic conditions in which the project must operate. Relying on this limiting assumption and avoiding climate-resilient analysis would here undermine the central conclusions relating to water resources in the county's environmental review. That avoidance would not simply produce a failure to study the effects of climate change “on the project,” to employ the phrase used in Chapter 16. For a project whose consequences are heavily water-dependent, such as the Specific Plan, reliance on past hydrology and failure to analyze the project's climate resilience would deprive the review of a complete understanding of how the project would operate in a range of climate-impacted conditions during decades of project construction and operation. In several cases, federal and state courts have cautioned against attempts to use past hydrology to avoid climate climate-resilient analysis. (See *NRDC v. Kempthorne* (E.D. Cal. 2007) 506 F.Supp.2d

322, 336, 337, 369; *PCFFA v. Gutierrez* (E.D. Cal. 2008) 606 F.Supp.2d 1122, 1184; *Pacific Coast Federation of Fishermen's Ass'n v. Gutierrez* (E.D. Cal. 2008) 606 F.Supp.2d 1122, 1184.) *Voices for Rural Living v. El Dorado Irrigation District* (2012) 209 Cal.App.4th 1096.

The following sources, available and hyperlinked on DWR's website, should be reviewed and included in the record for the Specific Plan, and incorporated in new analysis and mitigation measures designed to ensure that the Specific Plan is climate-resilient. These sources rebut the excuse that information is currently lacking (DEIR 7-2), which are in any event no excuse for the county to avoid genuine analysis.

The descriptions below of climate change reports and studies are those provided by DWR http://www.water.ca.gov/climatechange/pub_video.cfm.

- [California Climate Science and Data for Water Resources Management](#) (2015)
- [DWR Climate Change Achievements](#) (2014)
- [DWR Climate Change Annual Report 2013](#) (2014)
- ["Estimating Historical California Precipitation Phase Trends Using Gridded Precipitation, Precipitation Phase, and Elevation Data", DWR Memorandum Report](#) (July, 2014)

This exploratory study develops and describes a methodology that uses readily available research data sets to produce gridded estimates of historical rainfall as a fraction of total precipitation for areas comprising the major water-supply watersheds of California. Written by Aaron Cuthbertson (DWR), Elissa Lynn (DWR), Mike Anderson (DWR, California State Climatologist) and Kelly Redmond (Western Regional Climate Center).

- ["Preparing for Change, 'N' Magazine", by Elissa Lynn, DWR](#) (July, 2014)
- ["Regional Governance of Flood Management in the Central Valley: An analysis of the Integrated Regional Water Management and Regional Flood Management Planning processes "](#) (May, 2014)

This study analyzes the origins and functioning of the Integrated Regional Water Management and Regional Flood Management Planning processes, and the degree of coordination between them to address flood risks in the Central Valley. It examines how these two processes are working to generate multi-benefit strategies and account for climate change, and discusses opportunities for future coordination. This report was written by Esther Conrad, PhD candidate in Environmental Science, Policy and Management at the University of California at Berkeley.

- [Paleoclimate \(Tree-Ring\) Study](#) (February, 2014)

New Hydroclimate Reconstructions have been released, using updated tree-ring chronologies for these California river basins; Klamath, San Joaquin and Sacramento. The report, prepared by the University of Arizona, allows assessment of hydrologic variability over centuries to millennia, gives historic context for assessing recent droughts, and can be used in climate change research.

- ["Cry Me a Reservoir: Water Management and Climate Change Adaptation ", Environmental Law News](#) (Summer, 2013)

This paper presents four commentaries on water management and adaptation to climate change by four practitioners who work on these issues, including DWR's Katherine Spanos.

□ [DWR Climate Change Annual Report 2012](#) (2013)

□ [Preparing for New Risks: Addressing Climate Change in California's Urban Water Management Plans](#) (June 2013)

Urban Water Management Plans (UWMPs) are an important element of California's efforts to assure reliable water supplies. This study assesses how water suppliers have considered the impacts of climate change and greenhouse gas emissions in their 2010 plans, and provides recommendations for how DWR could improve its climate change guidance for 2015 UWMPs. This report was written by Esther Conrad, PhD candidate in the Department of Environmental Science, Policy and Management at University of California Berkeley.

□ [DWR Climate Change Annual Report 2011](#) (2012)

□ [Analysis of the Department of Water Resources volunteer Climate Cooperator Network](#) (December, 2012)

Discusses the current state of DWR's Volunteer Climate Cooperator Network, and makes suggestions for the future of the program.

□ [Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future](#) Prepublication (June, 2012)

Committee on Sea Level Rise in California, Oregon, and Washington Board on Earth Sciences and Resources and Ocean Studies Board (Division on Earth and Life Studies, The National Academies Press, Washington, D.C., www.nap.edu)

□ ["Climate Change and Integrated Regional Water Management in California: A Preliminary Assessment of Regional Approaches."](#) (June, 2012)

Written by Esther Conrad, Dept. of Environmental Science, Policy and Management, University of California, this report examines the initial steps that IRWM (Integrated Regional Water Management) regions are taking in response to new requirements to address climate change vulnerabilities and consider greenhouse gas emissions in IRWM plans in California. Specifically, this report seeks to assess the manner and degree to which the climate change requirements in the 2010 IRWM Guidelines are met in Round1 Proposition 84 Planning and Implementation grant proposals, and in recently approved IRWM plans, assess current IRWM regional approaches to analyzing and adapting climate change risks in light of the overall goal to promote an adaptive management approach, and provide recommendations on key steps for DWR IRWM regions to support the development of informative climate change analyses and mechanisms for adaptive management at regional and state levels.

□ [California Department of Water Resources Draft Climate Action Plan Phase I: Greenhouse Gas Emissions Reduction Plan](#) (2012)

DWR in an effort to reduce its impact on the environment and lead by example, is developing a Department-wide Climate Action Plan. The first phase of this Climate Action Plan is a Greenhouse Gas Emissions Reduction Plan, which will guide project development and decision making with respect to energy use and GHG emissions.

□ ["Hydrological Response to climate warming: the Upper Feather River Watershed"](#). Huang, G., Kadir, T., Chung, F. Journal of Hydrology (2012)

The hydrological response and sensitivity to climate warming of the Upper Feather River Basin, a snow-dominated watershed in Northern California, were evaluated and quantified using observed changes, detrending, and specified temperature-based sensitivity simulations.

□ ["The Climate has Changed: Now what? Integrated Regional Water Management and Climate Change Planning a Coincidental or Inevitable Union?"](#). Katherine Spanos. 30th Annual Water Law Conference American Bar Association Section of Environment, Energy, and Resources. San Diego, California (February 22-24th, 2012)

□ [Climate Change Handbook for Regional Water Planning](#) (2011)

□ ["Isolated and integrated effects of sea level rise, seasonal runoff shifts, and annual runoff volume on California's largest water supply."](#) Jianzhong Wang, Hongbing Yin, Francis Chung. Journal of Hydrology. (May, 2011)

A detailed analysis of climate change impacts on seasonal pattern shift of inflow to reservoirs, annual inflow volume change, and sea level rise on water supply in the Central Valley of California.

□ [DWR Climate Change Program Annual Report 2010](#) (2011)

□ ["Climate Change Characterization and Analysis in California Water Resources Planning Studies"](#). California Department of Water Resources (December, 2010)

A comprehensive and comparative look at planning studies conducted by DWR and its partner agencies that have addressed climate change. Thirteen planning studies completed since 2006 or in the process of being completed are reviewed and summarized.

□ [Coastal and Oceans Climate Action Team Sea Level Rise Task Force Final Interim Sea Level Rise Guidance Document](#) (October, 2010)

□ [DWR Climate Change Achievements Brochure](#) (2010)

□ [DWR Climate Change Program Annual Report 2009](#) (2010)

□ California Water Plan Update 2009: Volume 1 Strategic Plan, [Chapter 5 Managing for an Uncertain Future](#)

□ [2009 California Climate Adaptation Strategy](#). California Natural Resources Agency (December, 2009)

A first-of-its-kind multi-sector strategy to help guide California's efforts in adapting to climate change impacts. The 2009 California Climate Adaptation Strategy summarizes the best known science on climate change impacts in seven specific sectors and provides recommendations on how to manage against those threats.

□ ["Using Future Climate Projections to Support Water Resources Decision Making in California."](#) California Climate Change Center (May, 2009)

The report evaluates how climate change could affect the reliability of California's water supply. [Click Here](#) to view a Summary Factsheet. For further information, please contact Francis Chung (chung@water.ca.gov) or Jamie Anderson (jamiea@water.ca.gov)

□ [DWR Climate Change Program Annual Report 2008](#) (2009)

□ ["Managing an Uncertain Future; Climate Change Adaptation Strategies for California's Water"](#) California Department of Water Resources (October, 2008)

Focuses discussion on the need for California's water managers to adapt to impacts of climate change, some of which are already affecting our water supplies. The report proposes 10 adaptation strategies in four categories.

□ [DWR News/People](#) (Fall, 2008)

DWR's quarterly magazine highlighting the people and projects of DWR

□ ["Progress on Incorporating Climate Change into Management of California's Water Resources"](#) Climatic Change (March, 2008)

Published in the March 2008 special issue of *Climatic Change -California at a Crossroads: Climate Change Science Informing Policy*. This is an 18 page condensed version of the original 350 page 2006 report of the same name. Coauthored by DWR staff.

□ [Proceedings of the Western Governors' Association/Western States Water Council/California Department of Water Resources Climate Change Research Needs Workshop](#). (May, 2007)

A summary of information presented at the conference and of water management-related climate information and policy needs. Recommendations are also presented for development of relationships with the federal climate science agencies and with academia.

□ ["Progress on Incorporating Climate Change into Management of California's Water Resources"](#) California Department of Water Resources (July, 2006)

In response to Executive Order S-3-05 from Governor Arnold Schwarzenegger, this report documents the Department's progress toward incorporating multiple climate change scenarios into the management of California's water resources.

□ California Water Plan Update 2005:

- From Volume 1 Strategic Plan, [Chapter 4 Preparing for an Uncertain Future](#)
- From Volume 1 Strategic Plan, [Chapter 5 Implementation Plan, policy recommendation concerning climate change](#)
- From Volume 4 Reference Guide, [Climate Change and California Water Resources: A Survey and Summary of the Literature \(by Michael Kiparsky and Peter H. Gleick, Pacific Institute for Studies in Development, Environment, and Security\)](#)
- From Volume 4 Reference Guide, [Accounting For Climate Change \(by Maurice Roos, DWR\)](#)

Other reports not included in this list, but also meriting review, are the Public Policy Institute of California's April 2015 report, *Climate Change and Water*, and M. Goulden and R. Bales, Mountain runoff vulnerability to increased evapotranspiration with vegetation expansion, Proceedings of the National Academy of Sciences, 2014 111 (39) 14071-14075 (<http://www.pnas.org/content/111/39/14071.abstract?sid=7231d557-557d-401c-a33c-136256dedd25>).

The DEIR Fails to Fully Analyze and Mitigate the Project's Adverse Water Consequences

CEQA requires a complete assessment of the project's significant environmental impacts, and analysis and adoption of feasible mitigation measures

addressing these impacts. As SVPSD noted in scoping comments, “in consideration of the District’s existing water system infrastructure, there are inadequate water supply and service facilities to support the project.”

The analysis in the DEIR has not overcome this concern. In addition to the central deficiencies in the WSA-derived water analysis, summarized above, the Draft EIR and WSA fail to provide key information Mutual requested in scoping comments relating to the project’s water consequences, and to analyze those consequences as CEQA requires. In particular:

^a Fundamental deficiencies remain in the hydrologic studies remain (e.g., supply capacity of Squaw Valley groundwater basin and surface water bodies, seasonal variations in that capacity, sustainable yield of Squaw Valley groundwater basin, margins of safety to avoid groundwater depletion in multiple dry year scenario, status of underground storage tanks, and migration of subterranean pollution plumes through the basin, location and feasibility of proposed new pumps, maintenance of flow rates in Squaw Creek).

- The DEIR fails to fully account for water usage patterns and projections (e.g., complete analysis of demand and supply, storage mechanisms (and their environmental impacts), enforceable means to make resort operations maximally water efficient.
- The DEIR fails to fully account for project’s water sources (e.g., location of sources inside and outside Squaw Valley from which the project will draw supply, and quantity of water project will draw from each).
- The DEIR avoids Mutual’s request in scoping comments to study and quantify water rights and uses throughout the basin, and analyze how holders of existing and superior rights, including those of Mutual, can be protected during shortages..
- The DEIR fails to fully account for environmental consequences of water for the project delivered by a new mutual water company.
- The WSA and Draft EIR both reference additional groundwater studies, but selectively decline to incorporate their analysis on the theory that it would not be “appropriate.”
- The Draft EIR concedes that the groundwater modeling used in the WSA may have a “small” bias that fails to account for extreme drawdown at local wells, and concedes that groundwater recharge conditions have not been “fully mapped or quantified,” but avoids assessment and analysis of environmental consequences.
- The EIR fails to analyze water and climate-resilient alternatives to the project.

Moreover, the DEIR impermissibly defers project mitigation. One representative illustration is mitigation measure 13-4, which consigns to future determination the substance of efforts to verify performance of the groundwater pumping system without making the present commitment and establishing the performance criteria CEQA requires. The measure leaves ambiguous which wells would actually be covered, and is contingent on the hope of reaching a future development agreement with SVPSD whose aim and details receive only vague description. Adding to these concerns is that, as Myers' analysis verifies, the mitigation internalizes problems with the WSA's groundwater model and assumes its use in later updates.

CEQA authorizes deferred mitigation only where practical considerations prevent earlier implementation, and the reviewing agency commits to plan that ensures specific performance criteria and is clearly articulated at the time of project approval." (*Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028 (SOCA). Courts have rejected deferred mitigation where, as here, it fails to establish clear standards and leaves unresolved the availability and environmental consequences of project-related water resources. (See *Stanislaus Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182.) Moreover, the involvement of another agency with decision-making authority provides no excuse to avoid CEQA requirement to "mitigate or avoid the significant effects on the environment of projects it carries out or approves whenever it is feasible to do so." (Pub. Res. Code, §21002.1, subd. (b); see *City of Marina v. Board of Trustees* (2006) 39 Cal.4th 341, 368-369.) Mitigation measures must provide the opportunity for both municipal suppliers--Mutual as well as PSD--to participate in ongoing efforts to avoid harm to the basin and work toward sustainable management, working with the county and other stakeholders. These mitigation measures must also ensure compensation to these suppliers for harmful well deepening, and reduction of project pumping if necessary to protect the rights of senior appropriators.

The DEIR Fails to Fully Analyze and Mitigate Cumulative Impacts

The EIR fails to fully account for the likely scale of other planned development projects in Squaw Valley, particularly in light of deficiencies in the water and climate assessment of the project. Cumulative impacts must consider a particular project over time, and the impact of the project combined with other projects causing related impacts, including past, present, and probable future projects. CEQA Guidelines § 15130(b)(1).

The inadequacies in the WSA and DEIR water analysis discussed above and in the Meyers memoranda have important implications for both the direct and cumulative impacts of the Specific Plan, because they reveal constraints on water resources significantly greater than those recognized. The direct impacts in EIR categories depending on this water analysis-- chapters 6 (biological resources), 13

(hydrogeology and water resources), 14 (utilities and public services, and chapter 16 (climate change) are likely to be greater than the DEIR acknowledges, and Chapter 18's assessment of cumulative impacts needs to be included in that revised analysis. The DEIR denies significant cumulative impacts to Squaw Creek based on denial of interaction with the basin, using analysis Myers has criticized (DEIR 18-37). The DEIR also impermissibly curtails cumulative impact analysis of water supply based upon the conclusion, discredited in the Myers memoranda and discussed above, that pumping to serve the project and other anticipated projects will remain within the DEIR's threshold for saturated thickness. (DEIR, 18-36 to 18-42.)

Attached: 2012 NOP Response from SVMWC
2014 NOP Response from SVMWC

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Johnson", written over a printed name.

President

Squaw Valley Mutual Water Company

SQUAW VALLEY MUTUAL WATER COMPANY

P.O. Box 2276

Olympic Valley, CA 96146

Phone: (530) 583-3674 www.SVMWC.com Fax: (530) 583-1257

Maywan Krach
Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

November 8, 2012

Dear Ms. Krach:

The Squaw Valley Mutual Water Company (“SVMWC”) received a copy of the notice of preparation (“NOP”) of a draft environmental impact report (“EIR”) for the proposed Village at Squaw Valley Specific Plan and Phase I Project (“project”). SVMWC provides the following comments to highlight issues that SVMWC believes the EIR must address during this California Environmental Quality Act (“CEQA”) review process. SVMWC’s concerns fall into five principal categories, as elaborated below: (1) hydrological studies; (2) water usage patterns and projections; (3) water sources; (4) water rights; and (5) cumulative impacts.

Regarding hydrological studies, SVMWC urges Placer County (“county”) to outline early in the EIR process the analyses that the county and project proponent will complete to provide sufficient background information for determining the project’s impacts on water resources. These studies should include consideration of the following concerns:

- Overall supply capacity of Squaw Valley’s groundwater basin and surface water bodies and seasonal variations in that capacity;
- Determination of the sustainable yield of Squaw Valley’s groundwater basin, and margins of safety to avoid groundwater depletion in multiple dry year scenarios
- Status of underground storage tanks and migration of subterranean pollution plumes through the basin;
- Location of any proposed new pump(s) that the project proponent will construct as a condition of developing the location of SVMWC’s current pumping stations and; determination of the feasibility of utilizing these proposed pump relocation sites (including the maintenance of water quantity, quality and reliability and the obtainment and location of easements for pipelines to connect to SVMWC’s existing system);
- Maintenance and potential enhancement of the flow rates in Squaw Creek, including an examination of creek sinuosity and its impact on the supply capacity and sustainability of the groundwater basin.

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- Impacts of climate change on the availability of water, in both temporal and quantitative terms; and
- Integration of the Todd Engineering report with the results of ongoing hydrological studies, such as the joint University of Nevada, Reno and Lawrence Livermore National Laboratory's investigations.

Regarding water usage patterns and projections, the EIR must analyze and disclose the following:

- Current water usage in the basin, disaggregated by user and time of use;
- Overall anticipated water usage of the proposed project in its various stages of completion, including consideration of any fluctuations in use due to expected seasonal variations and specifically in multiple dry years;
- Comparison between current water usage and projected usage after project completion;
- Storage mechanisms (and their environmental impacts) to level out variability and differences in demand and supply; and
- Enforceable means to make the resort's operations maximally water-efficient.

Regarding water sources, SVMWC believes that the EIR must examine the following aspects of the project:

- Locations and sources inside or outside Squaw Valley from which the project will draw its supply;
- The quantity of water that the project will draw from each of these locations and sources;
- Required measures that will take effect if any of the anticipated water sources lacks sufficient supply for the resort's needs; and
- Accommodation of fluctuations and increased variability in supply that are likely to result from climate change-driven alterations in the availability of water in California, particularly in the Sierra Nevada as snowpack decreases over time and hydrographs change in both the timing and amount of flows.

Regarding water rights, the EIR must consider the superiority of existing Squaw Valley water users' rights vis-à-vis any new users. The EIR must, therefore, examine how the project proponent will ensure respect for existing users' water rights, including the rights of SVMWC, in times of water shortage. Any such shortages in supply should not be shared pro rata with all basin users; the superior rights of SVMWC and other users must be satisfied in full before new users receive any portion of the available supply within Squaw Valley. The EIR must identify measures to ensure respect for these superior rights and must contain

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contingency plans that the project will implement when the available supply is insufficient for all users. The county should also, to the extent possible, quantify water rights in the basin to understand the scope of senior users' rights.

Regarding cumulative impacts, the EIR must investigate other planned development projects in Squaw Valley to determine whether impacts to water resources will be cumulatively significant in light of these other projects. The county should identify the likely scale of any such anticipated developments and analyze whether the available water resources can accommodate them. Any insufficiency should result in additional mitigation measures to be implemented by the project proponent.

The abovementioned issues reflect SVMWC's concerns about the massive scale of the proposed project and its impacts on Squaw Valley's water resources. SVMWC believes that the CEQA process will provide a vehicle for analysis of these various concerns, and SVMWC looks forward to engaging in this process to help produce an EIR that will address the needs and rights of existing Squaw Valley residents and water users while also protecting Squaw Valley's environment and appropriately accommodating new users.

Thank you for your attention to these issues.

Sincerely,



Tim Mattheis – Board member, SVMWC
For:

John Johnson
President, SVMWC

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Maywan Krach
Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

March 10, 2014

Dear Ms. Krach:

The Squaw Valley Mutual Water Company ("SVMWC") received a copy of the notice of preparation ("NOP") of a draft environmental impact report ("EIR") for the proposed Village at Squaw Valley Specific Plan and Phase I Project ("project"). SVMWC provides the following comments to highlight issues that SVMWC believes the EIR must address during this California Environmental Quality Act ("CEQA") review process. SVMWC's concerns fall into five principal categories, as elaborated below: (1) hydrological studies; (2) water usage patterns and projections; (3) water sources; (4) water rights; and (5) cumulative impacts.

Regarding hydrological studies, SVMWC urges Placer County ("county") to outline early in the EIR process the analyses that the county and project proponent will complete to provide sufficient background information for determining the project's impacts on water resources. These studies should include consideration of the following concerns:

- Overall supply capacity of Squaw Valley's groundwater basin and surface water bodies and seasonal variations in that capacity;
- Determination of the sustainable yield of Squaw Valley's groundwater basin, and margins of safety to avoid groundwater depletion in multiple dry year scenarios
- Status of underground storage tanks and migration of subterranean pollution plumes through the basin;
- Location of any proposed new pump(s) that the project proponent will construct as a condition of developing the location of SVMWC's current pumping stations and; determination of the feasibility of utilizing these proposed pump relocation sites (including the maintenance of water quantity, quality and reliability and the obtainment and location of easements for pipelines to connect to SVMWC's existing system). Specifically this would apply to SVMWC's well's # 1 & 2 including the combined pumping facility for both wells located within the proposed area of development. This includes the replacement of any facility displaced by the project ;

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- Maintenance and potential enhancement of the flow rates in Squaw Creek, including an examination of creek sinuosity and its impact on the supply capacity and sustainability of the groundwater basin.
- Impacts of climate change on the availability of water, in both temporal and quantitative terms; and
- Integration of the Todd Engineering report with the results of ongoing hydrological studies, such as the joint University of Nevada, Reno and Lawrence Livermore National Laboratory's investigations.

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- Required measures that will take effect if any of the anticipated water sources lacks sufficient supply for the resort's needs; and
- Accommodation of fluctuations and increased variability in supply that are likely to result from climate change-driven alterations in the availability of water in California, particularly in the Sierra Nevada as snowpack decreases over time and hydrographs change in both the timing and amount of flows.

Regarding water rights, the EIR must consider the superiority of existing Squaw Valley water users' rights vis-à-vis any new users. The EIR must, therefore, examine how the project proponent will ensure respect for existing users' water rights, including the rights

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of SVMWC, in times of water shortage as demonstrated by the current three consecutive year drought. Any such shortages in supply should not be shared pro rata with all basin users; the superior rights of SVMWC and other users must be satisfied in full before new users receive any portion of the available supply within Squaw Valley. The EIR must identify measures to ensure respect for these superior rights and must contain contingency plans that the project will implement when the available supply is insufficient for all users. The county should also, to the extent possible, quantify water rights in the basin to understand the scope of senior users' rights.

Regarding cumulative impacts, the EIR must investigate other planned development projects in Squaw Valley to determine whether impacts to water resources will be cumulatively significant in light of these other projects. The county should identify the likely scale of any such anticipated developments and analyze whether the available water resources can accommodate them. Any insufficiency should result in additional mitigation measures to be implemented by the project proponent.

The abovementioned issues reflect SVMWC's concerns about the substantial scale of the proposed project and its impacts on Squaw Valley's water resources. SVMWC believes that the CEQA process will provide a vehicle for analysis of these various concerns, and SVMWC looks forward to engaging in this process to help produce an EIR that will address the needs and rights of existing Squaw Valley residents and water users while also protecting Squaw Valley's environment and appropriately accommodating new users.

Thank you for your attention to these issues.

Sincerely,



John Johnson
President, SVMWC